IN THE WITHED STATES DISTALCO A FORTHE MEDIOLE DISTRECTOR PENNISHIN CAPINGSCHOOLO JUHN RICHARD JAG U.S. DISHIRATING R Planta Mag TS Hatelige Sings VS. **FILED** HARRISBURG HENNETH D. KKERJetaly MAR 1 2 2001 MARY E. D'ANDREA, CLE Defendants. DEPUTY CLERK MOTITION TO COMPEL PRODUCTION OF DOCUMEN AND ANSWERS TO PLATIVE FRISECOND SET OF TAMERROGAPORTES The Platin APP John ATCHARD Jae moves the court ple to RIESH(b) and 37(a), Fed. P. CTOS, For an order consells the Defendants to prouce for inspection and copying the documents requested on Januars 2001, and Lanswer the son Of Interregator Test the same date, here the cabon control control This material speed upon the accompany the Affair of and Affairs Sup and upon the Roman Atles her the ase MR. JOHN RICHARD JAE Sct-Greene/smu Dated Sth MAROH 2001: 15 Asgres & Drive

Waynes bug fA-lsson

INTHE UNITED STATES DISTRICT COURT
FORTHE MIDDLE DISTRICT CORP.

JOHN RIDARD JAG

Planhappy

1/9_

KENNEPHD. KKERAGI-

Defendants.

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U.S. District Tidge k Mag BHOHE Tidge Sny

> FILED HARRISBURG

MAR 1 2 2001

MARY E. D'ANDREA, CLERK Per DEPUTY CLERK

AFFIDAVITENSUPPORTOF MOTERNITO CONFEL

ERODUCTION OF DOCUMENTS AND

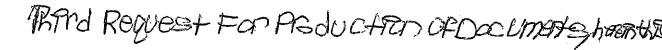
PHOTOHITETISAN RICHARD DREAVER & HESUNG

PENALTY OF PENGUTY & PURSUAN HES 28450.8 1716, HAG

I. I am the Plaintiff and Pase Counsel in the above-entitled CRVII Action. I make this AFAIA In Support of Motion B Competible duction of Documents he this case.

2. On or about January 9,2001, I served Defender Coursel of Record with the Originalsof Plantiff's Second Set of Interegatories and Plantiff's Third Request for Abduction of Documents having the

3. On an About February 13, 2001, Dafandants, throwas Filed their Dofandonts Okjections 75. Plaintiffed as Set of Intergatores and Defendants Objections 75 Plaintiff



4. That, all of plaintiffs seand solor
Interregations and all of his third requestra
feduction of Documents are relevant to therace
eclaims at above, herein this case, as so,
forthin the accompanying Briefth Support.

5 That Defendants Aswers To Hall Hill Second Set of Intersport of and the Fraduction of the Rec uments as is requested therein Plaintiff's Third Request For Asduction of Documents of the plaintiff to adequately respond to and defend against Defendant For Summary Judgment, herein this case

6. Defendants Objections, herein, are warred a result and a consequence of their father tem, them in a timely manner, as is settenth into accompanying Brief In Support.

L Definionts Objections, herein, are wolfred a prouply of Consequence of their father to Brechans to Phintipple monney her Defendants objections to Phintipple Second Set of Interegatates and their naturalists any interin support of their Defendants objection of Plantiff strain of Request For Production of Documents, hereither caseas set forth in the accompanyor Briefin Support

(W) HEREFORE, Floring Tohn Richardiae, Regy that this court gant the Metan is compain as respects and order the Defendants to Angus Plantafies second Set of Interrogataries in and produce all of the document-sneguesting floring for Plaintiff's Third Request for Production of Decuments in their individual enternity herein this case:

RESPECTALLYS SUBPRETIN

(3) Definition Description of the Maynes bug, PA 15370-808

DAted/executedon:

8th, MARCH 2001=

At = Waynesbug, Broghange

IN THE INITIED STATES DISTRICT COURT

JOHN RICHARD JAG

PARHARY

1/9-

KENNETH D. KYLERStal

Defendants.

CRITING LOK-00-0

U.S. DEHTHATIONA Mobilitate Julie Snyse

> FILED HARRISBURG

MAR 1 2 2001

BRIEFIN SUPPORT OF MOTION TO COMPEL PRODUCTIE ON DE DOCUMENTS AND AND PORAMINATEDEM DE PROPRESE

This is a 42 U.S. C. B1923 CTAIRIGHT ACTA
Fried by a Risoner at the State Correctional Institute
At Camp Hill, Camp Hill, PA., Seeking camposatarya,
Punitive Damages, a Declaratory Judgment, Planting
Costs of this evit, Plaintiff is Alterney is tees a cos
(Frany) an a Trial By Altery, based upon peradonted
of Legal Moterials, Repiaus Moterials, Showers,
outside fand erclise and essive heat four ventilation
Failure is Follow Mandatory Arison Rivey Directives
and Retaliation is a secretic of Rights to Freed
Of Speech.

Von atoeber 24,2000, the Plathtffage tignestaned the SCI-Camptial RHU to the SCI-Groene, envolvere he represent

II. STATE WENTOFTHEFACTS an JANUARY 8,2001, Plantiff matter his Second let the enegator and his Throw Regi For Pad uct for or Documents to cause 1 Ar Eh Dependants, herein this case, pursuant to Fed. R. P. 33 \$34(b).

AS SEL-FORTH BY the Plantapple APPROAVALTO OF Mot Pan 175 Compel ABduotPan OF Dadwant-spor the Defendants failed to respond to this plantage DISCOVERY Requests, as set forth above, with ? thirty (30) days of their Roce pot the reat the san 9.5 required by Pederal law, Fed_R_CTUP, 33(B) \$34(b)-8

Also, as set forth in the Harntiffs AFFRAUST Support of Metran 72 Compel Praduction of Docum HOPETY the Defendants havenot as of the day of the here Motion, Filed any British Superto Defendants appetions to Plaintiffes seconds on Interregatates, nor have they flow any Brief to Support of Defendants as pections to Plantiffely Request For Abduction of Documents within tool days after the Affling of said abjections, as regular
by M.D. LRZ Softhis Court, herein this case. 2/Plain Affmailed his Second Set of Intergatories and his Request For Reduction of Decuments and in varys, 2,00, and girles the Bold of the Bold of the Control of the Co

III. ARGUMENTS

A. DEFENDANTS HAVE WATED THETH CONTROLL TO ANY OF PLATINITH'S DISCOUNT REGION REGION REGION TO SUCH REQUESTS WITHIN THE R'TY (30) DAYS THERE AFTER SEXULE THEREOF THE SAME.

The Federal Rules of CITAL Precedure praise that responses and objections to Interrogator shall be served within thinty days after source! Rules the surse printe the same exact time to sonvioled responses and objections to Requests A of not respond to this Plantaple Second Soft Interregationes DOCPlata +7775 TRATIO Request to And OF DOCUMENTS, hereinthis case, nordid they file an Objections to either or both of such Pathythedis requests within thirty (20) days thereafterson of both of such, herein, either Defendants object of the second set of the gottoning and the Objections Tellantiffe TRind Requestor Balding Day were not served upon this Plathter, herein, unti February 13,2001, thinty-one (31) days after some thereof, and therete says 30, not si days In Act, ca did not even prepare Defendants objections is Flathi Second Schot Interegotates per Deforants Ugertinet Plan 4/ See Fed_ R.CRL P. 33(b)(3)_ FOR FOLR OR P. 34(b).

Third Request For Production of Documents untitle 31 rst day and the refere, Defendants agest to both Plaintiffs discover requests, heer, be especially untimely. 6/

Plaintest further more avers toubmits that it well-established in federal pactice that discover objects are waived if a party fatte to object timely to its interest poduction requests, or other discovery efforts. " <u>Edseyn Units</u> States, 133 F.R.D. 111,113 (S.D. Miss. 1990), accord, De V. Hamaha Moto Corp., 125 F.R.D. 20,22 (D. Miss. Miss. 1900) of Cases ofted Krawson v. Cityof Guincy, bo F.R.D. 31,31, (E.D. Pa,1969); Sturdevant v. Sears, Roebuck & D. 31,31, (E.D. Pa,1969); Sturdevant v. Sears, Roebuck & D. Sturdevant v. S

Phis warrer is enfaced even if the objections based on a claim of printege. Marive the hythart of Halman, RC., 929 Edd 3/2 (15t Cir. 1911) stretz which loter. D. 203, 300 (D. tan. 1986) and cases offed, Cardox Cap. 160 Mathream Chemical Cap., 25 P.D.S. (S.D.III. 1958). The noncomplying party is excused fantheur any if the discovery sought is patatly impaper." Galaxy which states, 133 E.R.D. at 113, at it for exceeds the bands of the half supported the bands of the half supported the time I mits of the Fallow of the formed, violated & dissespected the time I mits of the Fallow of the Completed & dissespected the time I mits of the Fallow of the Completed & dissespected the time I mits of the Fallow of the Completed & dissespected the time I mits of the Fallow of the Completed & dissespected the time I mits of the Fallow of the Completed & dissespected the time I mits of the Fallow of the Completed & dissespected the time I mits of the Fallow of the Completed & dissespected & dissesp

Fair discours brewson is City of Outney 120F. R.D. 7. Plaintiffs discovery requests at issue hours. "not" "potently impreper" Doubs such fan exceed the bands it fair discovery, and thus, Defendants should not be excused from the walver, hour this case.

B. DEFENDANTS HAVE WALVED THEIR OBJECTIONS TO ANNOC PLANVITHES DESCOVERY REQUESTS BY THEIR FAME TO FILE AND BRIZES IN SUPPRIT OF THEIR OBJECTIONS WITHIN TEN (10) DAYS.

Dn or About February 13,2001, the Defordant the Counce 1, Fried their Objections is Plaintiffer Second Set Of Interior adjection of Braintiffer of Plaintiffer Third Request For Browdian of Document Level this case, and therefore, as required by Malical for was due to be fried & served by no later the Forwary 27, 2001, however perendants have filled any Bries In Support of their Objections, but this case, as of the date of this Matrices, but this case, as of the date of this Matrices.

MDLR 15 of this court, in its relevant part, states:
Within ten (io) days after the fitting of a ny motion
Filed protetrial, the party filling the same dall
6-Cantal Order, by filling motions, Br Fers, Objections
by not pariding this with discover documents as
graphed by the cart for agriculture months from the formulation of the court for a graph of the court for a gr

File an arginal and two copies of a briter with the oler k and shall save copies their on all parties. ___ chiese otherwise ordered by the court, if supporting legal brites are not filed within the time pour ded in this nie such motion shall be dementable with dawn. I

Thus, Defendants objections to Plaintiff's disar Requests should be deemed withdown and Defendant should be compelled to answer Plaintiff's sear set of Interpolations in full and compelled to produce all of the Documents requested by Plaintiff Request For Production of Decuments, here's this instant crift Rights Action.

POINTIFFS SECONDSETTOF INTERROGATORIES AND PLATINITHO TRAIRD REQUEST FOR DOCUMENTS, HEREIN, ARE MODIFICIONITIMELY.

PHE Defendants, In both their Defendants' objection To Plaint Pressecond Set of Interportances and the Objections to Plaint Physic Reguest For Preduction of Green what this Plaint IT states to elstath, herein, supray this court should not order otherwise, herein

Documents, herein this case, a lain that because plaintiff is seand setalinterrogatories and flaintiffs think request top Production or Documents were not served an a date so that discovery could be completed by January 17, 2001, another after the supplemental complaintiff are not timely.

However, Contary to the Defendants classon, Plainterfavors & Submits, that, in addition to the Defendants Claim here being warved, according to be bought / Filed, the Defendants are in oranged to Dotoeber 20, 2000, Defendants thru canad filed to Objections is Plainterfus second Request for Paduction of Document, hereinthis case

On Nevember 12,2000, Platent AFFF Hed his BAPER Opposition 175 106+12/2016 Objections & Platent AFFF Second Request For Padvotion Of Document herein these case.

on December 4,2000, Defendants, thrucausel, filed the in Margardy mater apposition to Plantiff Motion to Compel, her ein thes case.

On December 18,2000, Plant AFF AFIED His Reply Brief To Defendants Memorandum In Opposition is Plantiffe Mation is compel, herein this case. Obviously, the Plaintiff couldnet File his Plaintiff & Second Set of Interest for Festivation of Plaintiff & Second Request For Feduction of Documents, herein, white this Planting were still pending before this court and had to walk until the court ruled on such pleatings before could be so give n what the Defendants had angued in their Memoandum in apposition to Plaintiff & Matter & Mat

The Court, on December 27,2001, dented the Defendants' Arguments and Ned that the december period in this case and not close until Danique 17,2001, and ganted Plaintiff is mation to mathematical mations and some control of the control of the

Plantate and not receive this counts paced and not receive this counts paced and he has plantate second set of Interegation of social plantates and Plantates Trans Request for the duction of Document upon course for the Defendants, herein, on January 8,2001, \$x 6) days later, and thus such were not yet the time.

haen.

Plantiffavers & Submits, that, M.D. LRQBY. Court, in its relevant part, states as follows:

In the absence of a discovery deadline at forth in a court order, each party to a CPM action shall complete allowing pecesings within SX (6) manths of the other

igst pleading filed by that party

Plantaffaverse submits, that, there is not 90 M.D. LR 7.5 of the court parts Fed. R. O.R.R. which regules this platniff to have saved his plaintiffs second set of the temporatories and his Plantiffs TRAND Request for Asduction of Docume upon counsel for the Dependants, herein thream and date so that discovery could be completed January 172001, the discourred addition, bereing Case. In fact, M.D. LR 26.4, 75, 75 releval part, specifically states, that; "---- each part civil action shall complete all discover plead Trass within SIX (6) manths of the date of the hetple filed by that party the last planding fried this plantiff, herein, was his supplemental complaint, filed on July 17, 2000, and thus s he served his Plantiffs second set at the topogate and his Hatriffer is the Aguest For As dution of Documents upon counsel for the Defendants h on January 8, 200% he "has" completed all disco proceedings within six(6) manths of the date of the last pleasing filed by this party, and furthermore, was then upon Défendants to fflethorn reap and Plaint Parts Thand Request Reduction of Documents, herein, within six 16) man of the date lost pleading fried by that party, which was an swent plaintiffs supplemental compaint filed, here

August 28,2000, which would make DePendant ATS covery dead Ine set for Februars 29,000, a Plaintiff Special Set of Interespet To Fescal The Request For Feduction of Decuments was multipled for the Perandants, herein, on Januar 8, 2001, and Defendants Inquers to both of such were due on February 12,2001, ampleting to have serve such on this Plaintiff betandants February 28,2001, and thus Defendants Claim here have no legal mentate all & are contained.

reeds the Defendants Anguers to Las Sa Set of Interpolatores and 77's necessary Defendants to predice allofthe admonts which it requests therein his Platintal's Third request for Designation of the second of Anduction of Documents, herein, in order conab him to adequately partitionally respond to DNd defend against the Defendants Motion For Summy Jodgment, herein, and that without such he will dented his roll stocke process of the law and to access to the Party as such dental will cause him to be unable to peperly, adequate \$ SUPFTERENTH dependent agament such defense motton, and helpes a right to Interegatory Anowers and documents which enable him toda and in astar as M.D.LR & G.G. can be used construed to Implordery him such, such walker of court would & does violate Fed. R. Cher. Sa (f) and deny this plaintiff his rights to constitute the piaces of the law un den the let of 14th Amendments of the United States constitute and such Local Rule of Cant would be the United states and this plaintiff does challenge the constitutional of wich and lasty a Local Rule of one Cant with a deny nor concumvent the rederal Rules of out the deny nor for all the courts nor what is allowed the work for it is the Federal Rules of out the Local Rules of this Court which contained and govern this matter, har antica case a thus, plaintiffs motion to compet, must be no To tull, by this courts

RESPECTIFULLYSUBMIT

(9 John Richard July MR. 50HN RICHARD 5785, #BQ-3219 SCI-GREGESMU 175 PROPES Drive. Waynesburg, PA. 15370-2089

Destad= 8th MARCH 2001=

Case 1.00-cv-00315-SHR Document 89 Filed 03/12/2001 Page 10 of CRITINO. 12 CHOSLE CERTIFICATE OF SERVICE

I certify that an 3/09/01, I mailed to the para 1751ed a true powered appy of each of the Plaintiff the To Campel Paduction Of Documents, Affiday to Support Of Motion To Campel Paduction Of Documents and Brefth Support of Motion To Campel Paduction of Documents and Brefth Support of Motion To Campel Paduction of Documents US 1st-class Mail, Pastage Prepaid & addressed to

MR. MPchael L. Harvey, SDAG OFFRE Athe Athrey General of Pansylming 15th Floor, Straw benry Square Harris burg, PA. 17820

"I Declare underpenal Hospertage publicant to 281505/1/6/16

Dated/executed on:

(S) JANGELOW SON MR. JOHN RICHARD S Plantaged Rise Coun

9th MARCH 2001s

Atallynesby, Anghons: